

Resolution No.: 11-03-14

Introduced: 11-10-14

Adopted: _____

Effective: _____

BOARD OF MANAGERS
FOR
CHEVY CHASE VILLAGE, MD

SUBJECT: AN ORDINANCE TO AMEND CHAPTER 8, "BUILDINGS AND BUILDING REGULATIONS", SEC. 8-21, "INSTALLATION AND MAINTENANCE OF FENCES, WALLS, TREES, HEDGES, SHRUBBERY, LAMP POSTS, HAND RAILS AND ARBORS" TO CLARIFY THAT REPLACEMENT FENCES MUST COMPLY WITH SETBACKS IN CERTAIN CIRCUMSTANCES

WHEREAS, §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, authorizes the Board of Managers to adopt such ordinances as it deems necessary to assure the good government of Chevy Chase Village; to protect and preserve the rights, property and privileges of the Village; to preserve peace and good order; to secure persons and property from danger and destruction; and to protect the health, comfort and convenience of Village residents; and

WHEREAS, Section 77-14(a) of the Chevy Chase Village Charter authorizes the Board of Managers to adopt such ordinances as it deems necessary for the safety and welfare of Chevy Chase Village; for the protection and preservation of Chevy Chase Village property, rights and privileges; for the preservation of peace and good order and for securing persons and property from violence, danger or destruction; and for the suppression and abatement of all nuisances; and

CAPS

[Brackets]

Asterisks * * *

CAPS

[Brackets]

: Indicate matter added to existing law.

: Indicate matter deleted from law.

: Indicate matter remaining unchanged in existing law but not set forth in Ordinance

:Indicate matter added in amendment

:Indicate matter deleted in amendment

WHEREAS, after proper notice to the public, the Board of Managers conducted a public hearing at which it considered the following ordinance in public session assembled on the _____ day of _____, 2014; and

WHEREAS, current Sec. 8-21 allows fences, among other structures and growths, to be replaced without regard to the setbacks required for new installations; and

WHEREAS, current Sec. 8-21 would allow replacement of fences without regard to setbacks even when Village maintained sidewalks, streets or alleys have been installed in the interim between issuance of the initial permit and replacement of the fence; and

WHEREAS, current Sec. 8-21 would allow replacement of fences without regard to setbacks even though it has been determined by the Village that such setbacks are necessary for the public's health, safety or welfare; and

WHEREAS, the Board has determined that it is in the public interest to clarify that replacement of a fence must comply with the setback requirements of Sec. 8-21(a) in the event that a sidewalk, street or alley maintained by the Village or other public entity is installed adjacent to a fence after the permit which authorized the construction of the fence, or if it is determined by the Village Manager to be necessary for the public's health, safety or welfare.

NOW THEREFORE, the Board of Managers of Chevy Chase Village does hereby adopt the following ordinance:

AN ORDINANCE TO AMEND CHAPTER 8, "BUILDINGS AND BUILDING REGULATIONS", SEC. 8-21, "INSTALLATION AND MAINTENANCE OF FENCES, WALLS, TREES, HEDGES, SHRUBBERY, LAMP POSTS, HAND RAILS AND ARBORS" TO CLARIFY THAT REPLACEMENT FENCES MUST COMPLY WITH SETBACKS IN CERTAIN CIRCUMSTANCES

SECTION 1.

BE IT ORDAINED AND ORDERED this _____ day of _____, 2014, by the Board of Managers of Chevy Chase Village, acting under and by virtue of the authority granted to it by §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, and Section 77-14 of the Village Charter that Chapter 8, “Buildings and Building Regulations”, Sec. 8-21, “Installation and maintenance of fences, walls, trees, hedges, shrubbery, lamp posts, hand rails and arbors”, be repealed, re-enacted and amended to read as follows:

Sec. 8-21 Installation and maintenance of fences, walls, trees, hedges, shrubbery, lamp posts, hand rails and arbors.

(a) through (e) * * * *

(f) Existing features. Notwithstanding subsection (a) above, any play equipment, fence (EXCEPT AS PROVIDED IN SUBSECTION F(6)), wall, tree, hedge or shrubbery existing on December 8, 2008, or any lamp post existing on April 14, 2014, may be maintained, repaired or replaced so that the maintained, repaired or replacement structure or growth:

- (1) Is in the same location as the existing structure or growth;
- (2) Does not encroach any farther into the public improvement setback than the existing structure or growth;
- (3) Does not exceed the height of the existing structure or growth;
- (4) Is of substantially similar material or species as the existing structure or growth; and
- (5) Is installed or constructed within six (6) months of the removal of the existing structure or growth.

(6) IN THE EVENT THAT A SIDEWALK, STREET OR ALLEY MAINTAINED BY THE VILLAGE OR OTHER PUBLIC ENTITY IS INSTALLED ADJACENT TO A FENCE AFTER THE PERMIT WHICH AUTHORIZED THE CONSTRUCTION OF THE FENCE, OR IF IT IS DETERMINED BY THE VILLAGE MANAGER TO BE NECESSARY FOR THE PUBLIC’S HEALTH, SAFETY OR WELFARE, A REPLACEMENT FENCE MUST COMPLY WITH THE SETBACKS REQUIRED IN SUBSECTION (A).

(g) * * * *

SECTION 2.

AND BE IT FURTHER ORDAINED AND ORDERED, this ____ day of _____, 2014, by the Board of Managers of Chevy Chase Village, acting under and by virtue of the authority granted to it by §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, and Section 77-14 of the Village Charter that:

- (1) If any part of provision of this ordinance is declared by a court of competent jurisdiction to be invalid, the part of provision held to be invalid shall not affect the validity of the ordinance as a whole or any remaining part thereof; and
- (2) This ordinance shall take effect on the ____ day of _____, provided the same is posted at the Village Office for fourteen (14) days prior thereto, subject to approval by the State Ethics Commission.

CHEVY CHASE VILLAGE

Michael L. Denger, Chairman
Board of Managers
Chevy Chase Village

ATTEST:

Richard Ruda, Secretary